

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:08-cr-1

v.

HON. JANET T. NEFF

MACARIO VILLANUEVA McKNIGHT,

Defendant.

/

MEMORANDUM OPINION AND ORDER

Defendant Macario Villanueva McKnight has filed a motion for modification or reduction of sentence (Dkt 147) pursuant to 18 U.S.C. §3582(c)(2) on the basis of Amendment 782 of the United States Sentencing Guidelines, made retroactive by the Sentencing Commission. The U.S. Probation Department has filed a Report of Eligibility (Dkt 150) finding Defendant ineligible, and Defendant has filed a Response (Dkt 170).

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11. These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10.

Having fully considered the Report of Eligibility (Dkt 150) and Defendant's response (Dkt 170), the Court has determined that the Defendant is ineligible for a reduction of sentence due to his sentence having been based on the career offender guideline. As pointed out in defendant's brief,

this career-offender designation precludes a reduction of sentence at this time, but defendant wishes to preserve this issue for future consideration should the law change.

Therefore, IT IS HEREBY ORDERED that Defendant's motion for modification of sentence (Dkt 147) pursuant to 18 U.S.C. § 3582(c)(2) is DENIED because the guideline range at sentencing was determined based on the defendant's status as a career offender.

DATED: October 2, 2015

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge